



ARIZONA STATE SENATE
Fifty-Second Legislature, Second Regular Session

AMENDED
FACT SHEET FOR S.B. 1441

~~long-term care insurance; rates; premiums~~
(NOW: premiums; rates; long-term care insurance)

Purpose

Makes various changes to Arizona's long-term care insurance laws relating to premium increases by insurers.

Background

Private long-term care insurance provides coverage for services used by chronically ill or cognitively impaired persons who may require assistance with basic essential activities of daily living, such as eating and bathing, typically in their final years of life. Long-term care insurance policies may cover services provided by nursing homes and other assisted living facilities as well as in-home care services, most of which are traditionally not covered under Medicare.

The premium rates for long-term care insurance policies are set by making actuarial projections about the revenue levels that insurers need to derive from their policyholders in order to pay for future costs of providing services covered under these policies. This includes making assumptions about mortality rates, potential lapses in coverage by existing policyholders before they have the opportunity to file claims, the number of policyholders that will retain their coverage and ultimately file claims, and the premium adequacy needed to ensure sufficient reserves for future benefits to policyholders.

Under current law, the Director of the Arizona Department of Insurance (Director) may adopt reasonable rules that promote long-term care insurance premium adequacy and protect policyholders in the event of substantial rate increases. The Director may adopt rules specifying: 1) the type or types of non-forfeiture benefits to be offered as part of a long-term care policy and certificate; 2) the standards for non-forfeiture benefits; and 3) the requirements for contingent benefit on lapse, including a determination of the specified period of time during which a contingent benefit on lapse will be available and the substantial premium rate increase that triggers the contingent benefit on lapse (A.R.S. § 20-1691.02).

No person may deliver or issue for delivery in this state any long-term care policy or rate unless: 1) the form or rate has been filed with the Director; and 2) the Director has approved the form or rate. If disapproving the form or rate, the Director must provide the insurer with written notice specifying the reasoning for disapproval, which may occur if: 1) the rate is deemed not to be in compliance with statute and any applicable rule; or 2) the form contains provisions

that are ambiguous, misleading or deceptive, that encourage misrepresentation of coverage or that are contrary to statute and any applicable rule. The insurer may request an administrative hearing to contest the disapproval (A.R.S. § 20-1691.08).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

Rate Increase Review and Approval

1. Requires the Director to consider the following in the review and approval of long-term care insurance rate increases:
 - a) the actuarial assumptions used by the insurer to support the requested rate increase;
 - b) documentation demonstrating that the actuarial assumptions used by the insurer to support the rate increase are based on actuarial and historical data that represent the experience of policyholders in this state, including:
 - i. specific data on canceled and lapsed policies in this state;
 - ii. data on experience relating to the payment of claims in this state; and
 - iii. data relating to policies ended as a result of policyholder deaths in this state; and
 - c) documentation illustrating the need for the rate increase, including a description of how the information contained in the long-term care exhibit included in the insurer's three most recent annual statements demonstrates a need for the requested rate increase.
2. Requires the Arizona Department of Insurance (Department), in considering a rate increase, to review the actuarial assumptions and projections used by the insurer to support the proposed rate increase, including whether the proposed rate increase is reasonably adequate to cover the future costs of policyholder claims in this state.
3. Requires the Director, in reviewing the soundness of the actuarial assumptions and projections used by the insurer to support the rate increase, to use the services of an independent actuary who is not affiliated with the insurer and who has experience in long-term care insurance pricing.
4. Specifies that the costs of the independent actuary whose services are used by the Director are to be paid from the Insurance Examiners' Revolving Fund and may be charged to and reimbursed by the insurer.
5. Specifies that if the independent actuary whose services are used by the Director determines that the actuarial and historical data representing policyholder experience in this state is not credible based on presently accepted actuarial standards of practice, then the Director must consider documentation based on experience from a comparable state as determined by the independent actuary.
6. Requires the Director, after reviewing the request for the rate increase, to do one of the following:
 - a) approve a single increase of the requested amount;

- b) approve a series of scheduled rate increases that are actuarially equivalent to the single amount requested by the insurer at one time as part of the current rate increase filing; or
 - c) decline to approve any rate increase if the actuarial assumptions or projections used by the insurer or documentation furnished by the insurer does not adequately substantiate a need for the rate increase.
7. Specifies that any premium increase may only be applied to a policy on the policy's anniversary date.

Notification Requirement for Premium Increases and Benefit Changes

8. Requires an insurer to notify its policyholders in writing at least 90 days in advance of the policy's annual anniversary date of any premium increase or change in benefits approved by the Department.
9. Requires a sample of the premium increase notifications to policyholders to be included in the rate increase filing to the Department and to contain all of the following:
- a) a disclosure of the amount of the premium increase over the prior policy period premium;
 - b) the implementation schedule of the premium increase, if the increase will be implemented in a series;
 - c) a list of all options available to the policyholder that will reduce the amount of the premium increase that must include at least the option to reduce the percentage of future inflation benefits for the policy before requiring the policyholder to reduce any earned or paid up benefits on the policy;
 - d) a prominent disclosure that premiums are subject to future increases;
 - e) an offer of any contingent benefit to the policyholder if the current policy lapses and the benefit is triggered; and
 - f) a list of current policyholder benefits, including the current and pending status of return of premium on death and survivorship benefits to enable the policyholder to make an informed decision regarding actions the policyholder may take to reduce the amount of the premium increase.
10. Specifies that the option to reduce the percentage of future inflation benefits shall remain available to the policyholder at any time during the lifetime of the policy.
11. Specifies that if no inflation protection exists on the policy at the time of the premium increase, then the insurer must also offer the following to the policyholder:
- a) the option to lower the existing policy benefits;
 - b) the option to increase elimination periods; and
 - c) other options to reduce the amount of the premium increase.
12. Requires an insurer, at least 90 days before the policy's annual anniversary date, to mail written notice to the policyholder that includes an explanation of the extent to which any premium increase is due to the actual or expected aggregate claims experience of the policyholders insured on that policy form.

Miscellaneous

13. Defines *independent actuary* as a person who is a member in good standing of the American Academy of Actuaries, who is contracted by the Department for the purpose of reviewing a rate increase filing submitted by an insurer and who is not either employed by the Department or affiliated with an insurer.
14. Requires the Department to provide on its website a list of Department-specific contract employment opportunities for independent actuaries and a link to the State Procurement Office to apply for those positions.
15. Changes the period of time that the Director has to issue an order either affirmatively approving or disapproving a form or rate for a long-term care insurance policy in this state from 30 days to 45 days.
16. Allows the Director to extend the 45-day period for long-term care insurance rate approval by an additional 45 days in order to allow the Department to conduct an independent actuarial review of the rate requested by the insurer.
17. Exempts the Department from rulemaking requirements for one year after the effective date of this legislation.
18. Makes technical and conforming changes.
19. Becomes effective on the general effective date.

Amendments Adopted in Committee

- Adopted the strike everything amendment.

Amendments Adopted by Committee of the Whole

1. Adds the option to extend the 45-day period for long-term care insurance rate approval by an additional 45 days.
2. Adds the requirement that the Director consider documentation on policyholder experience in a comparable state upon determination by an independent actuary that data representing policyholder experience in this state is not credible.
3. Adds the requirement for the Department to provide a list of contract employment opportunities for independent actuaries on its website.
4. Defines *independent actuary*.
5. Makes technical, conforming and clarifying changes.

FACT SHEET - Amended

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Senate Action

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3 rd Read	3/3/16		28-2-0

Prepared by Senate Research

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